

Statement regarding HB 434 to the Montana FWP legislative committee
February 17, 2009
Ryan deM. Jennings

Good afternoon, FWP committee members. To state the obvious we're here today to talk about disabled hunting in Montana, in particular the opportunities and challenges that a disabled hunter faces to hunt the archery season in our state. Like so many others, perhaps even some of you, I moved to Montana because I love to hunt and fish. Of course, I tell my mother and father in my original home state of South Carolina that I moved here for graduate school but they know that is only partially true. The 2008 big-game season was my first as a resident and I proudly applied for nearly every tag within reason. I must say that the disabled conservation license, general deer, and general elk tags are an awesome benefit to disabled residents of Montana. Thank you for previously making those provisions. In addition to all of those licenses, I also applied for the Permit to Modify Archery Equipment. At the time, I didn't have any intentions of pursuing archery. I was raised as a rifleman, but got my doctor to sign the PTMAE form since I was in the office getting the other forms signed. But the 2008 big-game season changed things. In short, I realized that I had to spend more days afield because hunting elk and deer in our state was more amazing than I had ever imagined. Thus I began researching the regulations regarding disabled archery hunting in Montana and other states. Not only did I need to understand the rules, but I needed to understand how, I, a very weak, physically challenged and mobility impaired hunter could fling an arrow with enough velocity and accuracy to ethically harvest game. Indeed, querying the internet led me to a variety of modifications to regular or compound bows that combined might be able to meet all of my needs. However, it did not then, nor does it now, make sense that a disabled hunter essentially be required by law to modify a regular bow while an able-bodied hunter is able to purchase a bow in the morning then hunt that evening. As a disabled individual, I know that this world isn't accessible and certainly neither is the outdoors. To be sure, I expect that I'll have to modify most any equipment to suit my needs. For example, below is a photo of my custom fabricated gun-rest. Every weak mobility impaired hunter that I know uses something similar that is fabricated to fit their wheelchair and otherwise meet their needs. In fact, my younger sister who is much weaker yet perhaps a better, if not luckier, hunter than I am, uses a battery-powered joystick operated gun-rest (photo 2). Such equipment is the means by which many disabled individuals have the ability to hunt with a long-gun.

But we aren't here today to talk about rifle hunting. I'm here to elucidate the reality of disabled hunting and suggest that the current Permit to Modify Archery Equipment is neither sufficient nor fair to certain disabled hunters. I realize that a few years ago the Montana Bowhunters Association worked to put those regulations on the books and their efforts do not go unnoticed, as the PTMAE is a worthwhile rule to accommodate the needs of some hunters. However, it is unreasonable to expect certain disabled hunters to extensively modify a regular bow when these modifications are essentially "built-in" to a crossbow. Thus, House Bill 434,

sponsored by my district's representative, Franke Wilmer. She and I worked to write this bill to be quite specific, such that not just any hunter could qualify to use a crossbow during the archery season. In fact, the qualifying criteria for HB 434, is that the hunter have a standardized muscle strength score of 0 to 3. For comparison, the PTMAE offers five relatively broad ways to qualify for its privileges, only one of which is a 0 to 3 standardized muscle strength score. HB 434 is very specific and the PTMAE is still a good regulation that can benefit some disabled hunters.

As these ideas turned into HB 434, various notes of opposition and support were sent to Rep. Wilmer. Rightfully so, she forwarded them to me and I unsuccessfully tried to improve the bill through this process. While I would like to present in my testimony some of the more interesting, ignorant and down-right rude comments of opposition that I've read both in those emails and in Montana bow-hunting blogs written by some seemingly prominent representatives of archers in our state, the code of civility prevents me from doing so. Rather, I will conclude my testimony with five statements for the record:

- 1) I am a graduate student at Montana State University, using a bioinformatics approach to study thermophilic archaea and bacteria in Yellowstone National Park and am not associated with manufacturers of any kind of weapon
- 2) Franke Wilmer is the representative of HD 64 and is not wasting valuable legislative time by voicing the concerns of a constituent or working to improve opportunities for disabled hunters
- 3) Many other states, including Colorado, New Mexico, Idaho, Utah, and South Dakota (to name just a few) allow certain disabled hunters to use a crossbow in the archery season but do not allow able-bodied hunters to use crossbows; I strongly oppose allowing able-bodied hunters to use crossbows in Montana's archery season
- 4) The present regulations regarding disabled archery hunting in Montana are not sufficient to meet the needs of certain disabled hunters and the available information pertaining to those rules is quite insufficient in providing any disabled hunter with adequate resources to modify archery equipment
- 5) Disabled hunters already face numerous challenges just to enjoy what other Montanans may take for-granted. To interject some reality – have you ever stalked a deer or an elk in a wheelchair? By providing these hunters with reasonable accommodation in choosing and using a weapon that can meet their needs, we will increase their opportunity to live as a “normal” Montanan

In conclusion, HB 434 isn't perfect but it is a significant step forward in providing disabled individuals equal opportunities as hunters in our state. Thank you for sincerely considering the challenges faced by very weak mobility impaired hunters as you vote on this bill.

Photo 1 – my manually operated gun-rest sufficient to hold a long-gun or a crossbow; costs about \$250



Photo 2 – example of a battery powered joystick controlled gun-rest sufficient to hold a long-gun or a crossbow; costs about \$1700



Supporting Documents – links to and rules of select states regarding crossbow use by disabled hunters

New Mexico - http://www.wildlife.state.nm.us/apps_permit/index.htm



Mobility Impaired Certification- Available to Resident and Nonresident Hunters

Special antelope, elk, deer or oryx hunts, may be organized for those hunters with mobility impairments as specified below. The individual must have a four-year MI Card PRIOR to submitting an application and enter their MI number on their application.

ALL MOBILITY IMPAIRED CARDS ISSUED PRIOR TO JANURARY 2006 EXPIRED ON MARCH 15, 2007. IF YOU HELD A CARD ISSUED PRIOR TO JANUARY 2006 YOU MUST RE-APPLY FOR MOBILITY IMPAIRED CERTIFICATION.

To be issued the MI card, a Form MI must be completely filled out, including certification by a physician that the hunter meets the eligibility criteria, and returned to the Santa Fe office of the Game and Fish Department. The Department will process the application and mail the applicant an MI card with a certification number. The individual then uses the MI number to apply for Mobility Impaired-only hunts using the proper Special Hunts application form.

To qualify for MI certification, an individual must have a permanent impairment that limits their mobility to a walker, wheelchair, or two crutches, or severely restricts the movement in both arms or have a combination of permanent disabilities that cause comparable substantial functional limitation.

If you are issued an MI card number, it will expire after 48 months and you MUST have it renewed.

Reasonable accommodations are automatically included with the MI Certification. If you are issued an MI Certification you will be allowed to:

- A. Apply for special MI hunts in the public drawing.
- B. Shoot at and kill protected species during their respective seasons from a stationary motor-driven vehicle that is not on a public road or highway.
- C. With permission of the landowner, lessee or land management agency, a hunter can, in some areas, drive off established roads to hunt for small game for drive off established roads to retrieve downed big game unless the area is closed by the landowner, lessee or management agency, or closed under the Habitat Protection Act.
- D. Be accompanied by another person to assist in tracking, killing and retrieving any big game animal which clearly has been wounded by the licensed mobility impaired hunter.
- E. Use a crossbow to hunt protected game during any open season; with a proper and valid hunting license for the species (no additional permit is required.)

R657-12. Hunting and Fishing Accommodations for People With Disabilities

R657-12-8. Crossbows and Draw-Locks.

(1)(a) A person who has a permanent physical impairment due to injury or disease, congenital or acquired, which renders the person so severely disabled as to be unable to use conventional archery equipment may receive a certificate of registration to use a crossbow or draw-lock to hunt big game, cougar, bear, turkey, waterfowl or small game during the respective archery or any weapon hunting seasons as provided in the applicable proclamations of the Wildlife Board for taking protected wildlife.

(b) The division shall accept the following as evidence of eligibility to use a crossbow or draw-lock:

- (i) obvious physical disability, as provided in Subsection (1)(a), demonstrating the applicant is eligible to use a crossbow or draw-lock; or
- (ii) provides a physician's statement confirming the disability as defined in Subsection (1)(a).

(2)(a) Any crossbow used to hunt big game, cougar, bear, turkey, waterfowl or small game must have:

- (i) a stock that is at least 18 inches long;
- (ii) a minimum draw weight of 125 pounds for big game, bear and cougar, or 60 pounds for turkey, waterfowl and small game;
- (iii) a draw length that is at least 18 inches from the front of the crossbow to the back of the string in a cocked position; and
- (iv) a positive safety mechanism.

(b) Arrows or bolts used must be:

- (i) at least 18 inches long; and
- (ii) must have a broadhead with two or more sharp cutting edges that cannot pass through a 7/8 inch ring for big game, cougar, bear or turkey.

(3) The following equipment or devices may not be used:

- (a) arrows with chemically treated or explosive arrowheads;
- (b) a bow with an attached electronic range finding device; or
- (c) a bow with an attached telescopic sight, except as provided in R657-12-9.

(4) Arrows or bolts carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(5) A drawn and cocked crossbow or bow with a draw-lock may not be carried in or on a vehicle.

(6) Conventional bows equipped with a draw-lock and used to hunt big game must conform with the minimum draw weights, and arrow and broadhead restrictions contained in R657-5.

Wildlife Recreation Accommodation Permits for Persons with Disabilities

Application

Wildlife Recreation Accommodation Permit Application (PDF)

Use this form to request accommodations including, but not limited to:

- Shoot from a stationary motor vehicle and/or OHV
- Authorize your assistant to track and dispatch your wounded game
- Use the exterior of your vehicle as support for your firearm
- Crossbow or draw-less during archery season (These permits do not allow for the use of scopes, red dot sights, magnified optical aids, laser, battery or electronically powered aiming, sighting, or range finding devices.)

For more information, or to request a paper application, contact the Call Center at (303) 297-1192 or email wildlife_info.

Applicable Laws

Information Bulletin for Accommodation Permit Holders (PDF)

Possession of an accommodation permit does not exempt the permit holder from obeying all other hunting and fishing statutes and regulations. Review this document for important information about the laws.

Regulation #008 Reasonable Accommodations (PDF)

Eligibility Requirements

The CDOW provides reasonable accommodations for individuals with disabilities as defined by the Americans with Disabilities Act (ADA). The ADA defines a disability as a physical or mental impairment that substantially limits one or more major life activities, defined as an everyday activity an average person can perform with little or no difficulty. There is no charge for these permits and they are valid for the period of time specified on the permit.

Accommodations to authorize an assistant to track and dispatch wounded game will only be given to individuals when the applicant is unable to perform any or all of the following essential functions of hunting:

- Walk the necessary distance to retrieve game;
- Walk the necessary distance to track wounded game;
- Field dress game;
- Transport game to camp.

Accommodations to shoot from a vehicle will only be given to individuals when the applicant has difficulty or is unable to perform any or all of the following essential functions of hunting, or is required to transport prescribed medical equipment:

- Exiting or entering the vehicle;
- Standing and balancing;
- Walking any distance without a prescribed assistive device or assistance.

Vehicle Access for Individuals with Mobility Impairments: For information and rules governing motor vehicle access on public land other than that owned or leased by the CDOW, contact the local office of the appropriate land use agency (i.e., [U.S. Forest Service](#), [Bureau of Land Management](#)).

For more information, contact the Call Center at (303) 297-1192 or email wildlife_info. You may also email [Windi Page](#).



Idaho - <http://fishandgame.idaho.gov/apps/ada/permits.cfm>

IDAHO CODE 36-409(a)

HANDICAPPED ARCHERY PROVISIONS. When the commission has established a special archery only season, any individual who is otherwise qualified to participate, shall be allowed to do so with the use of a crossbow if he has a permanent disability whereby he does not have use of one (1) or both of his arms or hands. The commission shall promulgate rules to establish a process for verifying the existence of the disability and for issuance of a free permit to qualifying individuals.

The Idaho Fish and Game Commission, in accordance with Section 36-105 and subsection 36-409(a), Idaho Code, hereby establishes the following regulations governing the acquisition of a handicapped archery permit:

IDAPA 13.01.04.304 HANDICAPPED ARCHERY PERMIT

01. Applications.

a. Applications for handicapped archery permits shall be on a form prescribed by the Department. Only eligible applicants may submit such applications.

b. Applicants shall sign the application. Nonresident applicants must have their signature notarized. Each application shall be accompanied by certification from the applicant's physician stating that the applicant has a permanent disability whereby he does not have use of one (1) or both of his arms or hands. The physician shall also certify that the applicant is capable of holding and firing, without assistance from other persons, a crossbow. If the physician is not licensed to practice in Idaho, a photocopy of the physician's medical license must also be sent in with the application.

02. Permits.

a. Handicapped archery permits shall be issued only by the Director of the Department and shall expire on December 31 of the fifth year following the date of issuance.

b. The handicapped archery permit shall be carried on the person of anyone participating in an archery only season with the use of a crossbow and produced upon request of an officer.

c. The handicapped archery permit shall allow the holder thereof to participate in an archery only hunt with the use of a crossbow.

South Dakota –

<http://www.sdgfp.info/Wildlife/Disability/DisabilityLicensesandpermits.htm>

Crossbow/Draw-Lock Permit

A Crossbow/Draw-lock Permit is available to any person who is permanently or temporarily incapable of using a bow and arrow due to the loss of or loss of use of one or both arms, caused by birth defect, injury, disease, or who is confined to a wheelchair.

Crossbows used for hunting shall have a minimum pull of 125 pounds and be equipped with a functional mechanical safety device. Telescopic sights and lighted sight pins are prohibited. The bolts shall be equipped with a broadhead blade made of metal, with at least two cutting edges, a cutting diameter of at least 7/8 inch wide and the blade must be at least as long as it is wide (except for turkey hunting.) This permit also entitles a person to use a bow that is equipped with a draw-lock device that holds the bow at a partial or full draw. A person issued a crossbow/draw-lock permit may not possess a firearm in the field nor be accompanied by a person carrying a firearm during any season restricted to archery, except for those persons who possess a valid permit to carry a concealed weapon. The crossbow/draw-lock application has a section that must be completed and signed by a licensed physician or chiropractor that will document the medical condition, disability, or injuries that restricts the applicant from using a conventional bow and arrow. The physician or chiropractor is required to list a date of recovery for the applicant. Applications are available from:

GFP Permitting Office 412 West Missouri Pierre, SD 57501

Call (605) 773-4191 for further information. South Dakota residents can obtain an application from their local conservation officer, regional or district GFP office.

Doctor's portion of the application for Montana's PTMAE

Section 3 — Must be completed by a licensed physician (M.D. or D.O. only)

Montana Fish, Wildlife & Parks requires that an applicant for the "Permit To Modify Archery Equipment" meets at least one of the following criteria as a **PERMANENT** medical condition (check all that apply):

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- ☐ Amputation involving 4 fingers at the proximal interphalangeal joint, wrist, elbow or shoulder.
 - ☐ Spinal cord injury at the level of T-1 or above, resulting in permanent disability of at least 80% to a hand, wrist, arm or shoulder.
 - ☐ Muscle weakness resulting in a permanent disability of the muscles of the shoulder, arm and back used in drawing and holding a bow. (Testing procedures shall use the "Techniques of Manual Muscle Testing" by Daniels and Worthingham and be scored on a range of grade 0 to grade 5. The applicant must score grade 3 or worse to qualify for a modified archer's permit.)
 - ☐ Impaired range of motion of the shoulder, elbow or wrist that would prohibit the applicant from raising and holding a bow in the horizontal position. The impairment must be of a permanent nature.
 - ☐ Coordination deficit. Coordination is the ability to execute smooth, accurate, controlled movement. Incoordination or coordination deficit describes abnormal motor function characterized by awkward, extraneous, uneven or inaccurate movements. This deficit may be caused by central nervous system disorders, including, but not limited to, Parkinson's Disease, Cerebral Palsy, Hemiplegia, Hemiparesis and closed head trauma; or by progressive neuromuscular diseases, such as Muscular Dystrophy, Multiple Sclerosis and Amyotrophic Lateral Sclerosis. The physician must assess the ability of the applicant to use his or her muscles or groups of muscles in a coordinated manner necessary to adequately and safely shoot a standard bow.

I hereby certify that the above-named applicant is eligible for the "Permit To Modify Archery Equipment" due to the applicant's **PERMANENT** medical condition checked above.

PRINT — M.D. or D.O. Name

M.D. or D.O. Office Phone Number

PRINT — M.D. or D.O. Address

M.D. or D.O. License #

M.D. or D.O. Signature

Date

Excerpt from Page 17 of the 2008 MT hunting regulations – no direction for disabled hunters in terms of archery modifications

- **Permit To Modify Archery Equipment (PTMAE):** Residents and nonresidents certified as permanently and substantially disabled, as defined by FWP rules, may apply for a PTMAE. The PTMAE allows a person with a disability to use archery tackle that supports the bow, and draws, holds, and releases the string to accommodate the individual disability. Arrows are not exempt, and must meet requirements for the Archery Only Season. This permit does not entitle the holder to use a crossbow. The permit only allows modification of legal archery tackle and must be used with a valid bow and arrow license and appropriate hunting license.

Excerpt from "Crossing the Barriers" pamphlet downloaded from Montana's FWP website - no direction for disabled hunters in terms of archery modifications

**Permit To Modify Archery Equipment
(PTMAE)**

How to Apply?

Who can apply?

To qualify for PTMAE, the applicant—resident or nonresident—must be certified by a licensed physician (M.D. or D.O.) and must meet at least one of the following permanent medical conditions:

- Amputation involving 4 fingers at the proximal interphalangeal joint, wrist, elbow or shoulder.
- Spinal cord injury at the level of T-1 or above, resulting in permanent disability of at least 80% to a hand, wrist, arm or shoulder.
- Muscle weakness resulting in a permanent disability of the muscles of the shoulder, arm and back used in drawing and holding a bow.
- Impaired range of motion of the shoulder, elbow or wrist that would prohibit the applicant from raising and holding a bow in the horizontal position.
- Coordination deficit. (See application for specific details)

How much does it cost?

No charge.

When and where can I get the permit?

This permit is available throughout the license year, beginning March 1.

This permit is only available from a MFWP office.

What does PTMAE entitle me to do?

The PTMAE allows a person with a disability to use modified archery tackle that supports the bow, and draws, holds and releases the string to accommodate the individual disability (arrows,

however, are not exempt, and still need to meet current requirements for the archery season as defined in the annual regulations). **Crossbows may not be used during the archery season.**

The **PTMAE** application is available from any MFWP office, by calling 406-444-2535 or print the application from our website at www.fwp.mt.gov.

1. The application must be completely and correctly filled out.

2. All applicants applying for this permit must be certified by a licensed physician (M.D. or D.O.) as meeting the permanent disability criteria listed on the current application.

3. Return your application by mail or in person to any MFWP office for certification. Eligible applicants will be issued:

a) a **wallet card**, which must be carried on their person and used with their **current year's archery and hunting license**,

b) **specific guidelines** regarding **PTMAE**. Permit-holders may be required to have a companion to assist in aspects of the hunt such as bow set-up, transporting the game animal(s), etc. The companion may also assist the permit holder by hunting (by the legal use of archery equipment only) a game animal that has been wounded by the permit holder when the hunter with a disability is unable to pursue and kill the wounded animal.

February 16, 2009

Dear Members of the Fish, Wildlife and Parks Legislative Committee,

I would appreciate your support of House Bill 434 submitted by Rep. Franke Wilmer on 02/17/2009.

I am a disabled veteran with a service connected low back condition, (lumbar fusion in 1990). This injury never stopped me from being an avid archer and hunter. I have bow hunted since 1968 and have even shot competition in the past. In 1995 I had a car accident in which I had to have two vertebrae fused in my cervical spine. I still continued to bow hunt every year and was very successful. In 2005 I fell at work and that changed my life forever.

Since that injury I had a complete fusion of my cervical spine (all seven vertebrae) and reconstructive shoulder surgery. My grip in my left hand is no more than seventeen pounds and I have lost most of the use of my left hand. I am limited to eight pounds of lifting on my right side and have some limited vision due to my injury. I cannot turn my head to the right of left without getting headaches. I have not worked since 09/2006 and now rely on my sons to take me hunting because we do rely on the meat for my family needs. I have been given a vehicle hunting permit from the state but I refuse to use it until I am unable to do otherwise.

There are people that are in much worse condition than I am, I can still walk, talk and frankly look normal in public. I heard today that the Montana Wildlife Federation was in opposition to Bill 434 so I called Mr. Craig Sharp, the director of the organization. I asked him why they were in opposition, (he is a very nice gentleman to speak with and he listened to my concerns). He said that a lot of the bow hunters were concerned that this could open the doors to anyone who wants to hunt with a crossbow. He also stated that the bow hunters were concerned with wounded animals left to die, due to being shot with a crossbow. Well, I am here to tell you that there are also animals wounded with conventional bows and compound bows.

Should we outlaw those too? The lethal part of "archery and firearms hunting is about shot placement." You can ask anyone that has a Montana guide's permit. Animals are wounded due to a lack of "practice and knowledge of equipment." Montana Wildlife Federation was founded on the following principles:

1. Wildlife, public lands and water are owned or managed for "the people"-- ALL PEOPLE.
2. "All citizens" have the right to equally share access and enjoy our natural resources.

These are just two of their principles and I also believe in them. After my conversation with Mr. Sharp, he suggested that he would talk to other members of their organization and would consider a "stand down" from their opposition. The equipment that disabled hunters are required to use in the State of Montana is unethical. The extra dollars that disabled people have to spend to do the same as others is unethical. The words that have been spoken by others about others are unethical.

Can we all use common sense about this issue and support HB 434? I hope so! I ask for your support and the passage of this Bill so ALL CITIZENS can enjoy hunting in Montana.

Sincerely,
David Helmers
PO Box 464
Plentywood, MT 59254

EXHIBIT 6
DATE 2-17-09
HB 434

Mr. Chairman and Members of the Committee:

My name is Jim Gappa and I am the President of the Montana Bowhunters Association. We unite bowhunters statewide to preserve and promote bowhunting opportunity, provide education, foster sportsman/landowner relations, and facilitate access to public habitat and wildlife.

We oppose the introduction of crossbows into the archery season. Crossbows have attributes common to firearms rather than bows, including a stock, trigger and scope. They have an effective range of over 100 yards, double that of compound or traditional bows. The introduction of crossbows into the regular archery season alters the close-range nature of bowhunting.

Several years ago, the MBA worked collaboratively with the Montana Department of Fish, Wildlife and Parks to establish the Permit To Modify Archery Equipment (PTMAE), which went into effect in 2002. This permit allows a person with a permanent disability to use modified archery equipment that supports the bow, and draws, holds and releases the string. Literally, if a person can breathe through a tube, they can release an arrow with modifications made to a compound or traditional bow. These modifications including the bows are readily available at a reasonable cost and can be purchased for less than the cost of some crossbows. Montana's PTMAE meets the Americans with Disabilities Act's definition of reasonable accommodation and it is core to our mission to assist individuals with disabilities in obtaining modified archery equipment suitable to their needs.

The Montana Department of Fish, Wildlife and Parks has addressed numerous challenges to the law in recent years. Each of the challenges has failed, and we feel this demonstrates the vigor of the law as well as the strength of Montana's PTMAE program.

We respectfully request that you table HB 434. Thank you for the opportunity to comment.

Respectfully,

Jim Gappa
President - MBA